

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Transition from TTY to Real-Time Text Technology)	CG Docket No. 16-145
)	
Petition For Rulemaking To Update The Commission's Rules For Access To Support The Transition From TTY To Real-Time Text Technology, And Petition For Waiver Of Rules Requiring Support Of TTY Technology)	GN Docket No. 15-178
)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”) submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) proposing to adopt new rules governing the provision of text-based communications over Internet Protocol-based (“IP-based”) networks.¹ CCA and its members are strongly committed to accessibility, and are working to develop and implement Real-Time Text (“RTT”) or other accessible IP-based text alternatives.

CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents nearly 200 associate members consisting of small businesses, vendors, and suppliers that serve carriers of all sizes. CCA’s members support the Commission’s goal of ensuring that wireless devices are

¹ *Transition from TTY to Real-Time Text Technology*, Notice of Proposed Rulemaking, FCC 16-53 (rel. Apr. 29, 2016) (“NPRM”).

accessible to individuals with communications disabilities, while continuing to invest resources to provide more innovative services to all consumers.

CCA supports the Commission’s proposal to adopt new rules applicable to text-based communications over IP-based networks. Those rules, however, must be grounded in the Commission’s statutory authority—that is, Section 255, Section 716, and the Americans with Disabilities Act (“ADA”)—which limits obligations on covered entities to what is, under Section 255, “readily achievable,” defined in the ADA as “easily accomplishable and able to be carried out without much difficulty or expense,”² or, under Section 716, “achievable,” meaning “able to be accomplished “with reasonable effort or expense, as determined by the Commission.”³

The Commission has recognized that TTY is unfeasible over IP-based networks and thus carriers cannot comply with certain rules.⁴ The Consumer and Governmental Affairs Bureau has

² 47 USC § 255(a)(2) (incorporating the ADA definition, 42 USC § 12181(9)).

³ 47 USC § 617(g).

⁴ *Petition for Waiver of Rules Requiring Support of TTY Technology*, Order, 30 FCC Rcd. 10,855 ¶ 9 (rel. Oct. 6, 2015) (“*AT&T Waiver Order*”) (“there are major technical barriers to reliably supporting TTY transmissions over IP networks”). That *Order* also recognized that TTY tones do not “travel well using IP audio compression, transmission, and packet loss repair techniques without introducing text errors,” *id.* ¶ 9 (citing *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications, Framework for Next Generation 911 Deployment*, Notice of Proposed Rulemaking, PS Docket Nos. 11-153, 10-255, 26 FCC Rcd 13615, 13624 ¶ 26 (2011) (*Text-to-911 NPRM*)); that TTY over IP can be “unreliable or even nonfunctional,” *id.* (citing Comments of Consumer Groups on Petition of AT&T Regarding the Substitute of Real-Time Text for Text Telephone Technology at 8, GN Docket No. 15-178, PS Docket Nos. 11-153 & 10-255, WC Docket No. 04-36, and CG Docket Nos. 03-123 & 10-213 (filed Aug. 24, 2015) (“Consumer Group Comments”)); and that “TTYs are seldom used on wireless networks.” *Id.* ¶ 6. The Commission’s Emergency Access Advisory Committee estimated that in 2013, wireless TTY usage was “close to zero.” *Id.* ¶ 5 n.33 (citing Comments of CTIA – The Wireless Association at 4, GN Docket No. 15-178 (filed Aug. 24, 2015) (quoting Emergency Access Advisory Committee (EAAC), *Report on TTY Transition*, 12 (Mar. 2013), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-319386A1.pdf)).

accordingly granted waivers to AT&T, Verizon, Cellular South, and CCA,⁵ and has initiated this rulemaking to propose new rules regarding the use of RTT for accessible, text-based communications over IP-based networks.⁶

CCA hereby suggests certain changes, as described below, to the Commission's proposals. These changes will ensure that any new rules are "readily achievable" or "achievable," do not impose arbitrary and capricious mandates on competitive carriers, and are necessary to accommodate compliance by Tier II and Tier III carriers.⁷

I. The Commission Should Grant Competitive Carriers Additional Time to Deploy RTT.

CCA requests the Commission grant additional time to deploy RTT beyond the imposed deadline.⁸ The NPRM proposes a December 31, 2017 deadline for Tier I carriers to implement and deploy RTT. The Commission specifically asks whether that deadline should be applied to non-nationwide carriers.⁹ CCA, as the association representing the nation's competitive carriers, believes that non-nationwide carriers will need additional time to deploy RTT and therefore should not be held to the December 31, 2017 deadline.

⁵ *AT&T Waiver Order; Petition for Waiver of Rules Requiring Support of TTY Technology*, Order, 30 FCC Rcd. 12,755 (rel. Nov. 13, 2015) ("*Verizon Waiver Order*"); *Petition for Waiver of Rules Requiring Support of TTY Technology*, Order, 30 FCC Rcd. 14,404 (rel. Dec. 18, 2015) ("*Cellular South Waiver Order*").

⁶ *NPRM* ¶¶ 11-12.

⁷ *Nuvio Corp. v. FCC*, 473 F.3d 302, 303 (D.C. Cir. 2006); *Alliance for Cannabis Therapeutics v. Drug Enforcement Admin.*, 930 F.2d 936, 940 (D.C. Cir. 1991).

⁸ See Revised Petition of Competitive Carriers Association for a Waiver, GN Docket No. 15-178 at 6-8 (filed Apr. 8, 2016) ("*CCA Waiver Petition*").

⁹ *NPRM* ¶ 27.

As noted in its waiver petition, CCA's non-nationwide carrier members will require additional time for compliance with the new RTT rules.¹⁰ Thus, CCA recommends the Commission grant non-nationwide carriers who have already deployed IP-based networks an additional eighteen months to deploy RTT; those carriers who have not deployed IP-based networks should be subject to a different deadline, tied to the date of their deployment of IP-based wireless networks.

Because of their size and dominance of the technical ecosystem, development of a fully interoperable and backwards-compatible solution, will necessarily be driven by the two largest wireless providers who have been driving the equipment ecosystem for RTT functionality. At the same time, Tier II and Tier III carriers have less ability to influence the technical ecosystem in which RTT will operate. Indeed, AT&T and Verizon both command important aspects of the development of RTT, including equipment design and manufacture. AT&T and Verizon also have wireline infrastructure, capabilities, and other resources that many of CCA's members do not have. Changes to that infrastructure and to those capabilities is a necessary precursor to deployment of a fully interoperable and backwards-compatible solution by other carriers.

Specifically, in its *IP-Voice Accessibility Status Report*, AT&T recently acknowledged that "wireless carriers are in the early stages of technology development and thus, challenges are as yet undefined."¹¹ As AT&T recognizes, there is uncertainty about potential issues that may arise in achieving RTT interoperability, and in particular, whether the varying sizes and inevitably resources of smaller carriers will ultimately affect the timing of RTT development. Even AT&T notes that its deployment of RTT has elements of uncertainty, stating that the

¹⁰ CCA Waiver Petition at 6-8.

¹¹ *IP-Voice Accessibility Status Report of AT&T*, GN Docket No. 15-178 at 2 (filed Apr. 6, 2016).

company “hopes to offer mobile devices with a manufacturer embedded RTT solution in 2018, dependent on standards setting and manufacture development cycles.”¹² This timeline was again highlighted in AT&T’s most recent report, which emphasized that native compliance would take longer than the proposed December 2017 deadline, until at least 2018, when AT&T hopes to begin receiving mobile devices from manufacturers with this capability.¹³

As a result, CCA’s members are placed at a significant competitive disadvantage as it is unlikely that, at this point in RTT development, they will be involved in the process of developing these standards and manufacture cycles. There also is little certainty with regard to the intricacies of establishing RTT interoperability or backwards compatibility, and whether any CCA carrier member, especially its smaller carriers, will have the appropriate devices and resources to achieve deployment under the current timeframe. The Commission therefore should ensure that non-nationwide providers are included in the path to interoperability for RTT technologies, and are allotted additional time to deploy their accessibility solution.

The Commission has, in other contexts, granted additional time for compliance to smaller carriers, noting that Tier II and Tier III carriers in many cases do not have the ability to drive technology development and deployment, as well as an inability to obtain equipment on the same timeframe as the largest nationwide carriers.¹⁴ The same rationales apply here. In response to

¹² *Id.* at 3; *see also Ex Parte* Letter from Linda Vandeloop, AVP Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 15-178 at 4 (filed June 16, 2016).

¹³ *See id.*

¹⁴ *See Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Order to Stay, 17 FCC Rcd. 14,841, ¶ 10 (2002); *Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones*, Memorandum Opinion and Order, 23 FCC Rcd. 3352, ¶ 5 (2008); *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd. 1259, ¶ 104 (2015); *see also Promoting Interoperability in the 700 MHz Commercial Spectrum*, 28 FCC Rcd. 15122, ¶¶

the NPRM’s inquiry regarding a deployment timeline as applied to non-nationwide carriers, CCA recommends the Commission grant its non-nationwide members who have deployed IP-based networks an additional eighteen months to deploy RTT, or another IP-based, accessible text solution, over their IP-based networks, requiring deployment by June 30, 2019.¹⁵ And for those that have not deployed, the Commission should tie their compliance deadline to the date of their deployment of IP-based wireless networks.

II. The Commission Must Clarify Who Bears the Obligation to Meet the Proposed Handset Obligation.

The NPRM proposes that handsets and devices sold after December 31, 2017 be RTT-capable.¹⁶ The paragraph proposes simply that “the timeline established for RTT support over IP-based wireless services apply as well to handsets and other text-capable end user devices,”¹⁷ to ensure that “sufficient handsets are available for people with disabilities to have access to text communications in real time after the existing orders waiving service provider requirements for TTY support expire.”¹⁸ As written, that obligation could apply to carriers—and would therefore eliminate any intention by the Commission to grant non-nationwide carriers additional time to

55-59 (2013) (granting an extension of time to meet construction benchmarks for 700 MHz E Block licensees).

¹⁵ The Commission has recognized in the text-to-911 context that allowing additional time for deployment for any service provider, regardless of size, can “enable service providers to flexibly handle unforeseen delays...without the need to burden the Commission with waiver requests.” *Facilitating the Deployment of Text-to-911 and Other Next Generation Services, Framework for Next Generation 911 Deployment*, Second Report and Order and Third Further Notice of Proposed Rulemaking, 29 FCC Rcd. 9846, ¶ 51 (2014) (allowing service providers to enter into flexible arrangements with PSAPs for deployment of text-to-911 beyond the six-month requirement set forth in the rules).

¹⁶ *NPRM* ¶ 28.

¹⁷ *Id.*

¹⁸ *Id.*

deploy RTT. This cannot be what the Commission intended and conflicts with other portions of the NPRM. CCA therefore seeks clarification that equipment manufacturers would bear the obligation for meeting this proposed requirement, not carriers.

The reality is that carriers will be unable to meet the RTT deployment requirements until RTT-capable handsets are available. And handsets will not be available until appropriate standards have been developed. Once standards are in place, manufacturers will work with carriers to ensure they can address carrier-specific requirements for devices. Only after this process has concluded can handsets actually be manufactured and made available to carriers and then to consumers.

If the proposal set forth in the NPRM must be met by carriers, competitive carriers will simply not be able to comply with the obligation.¹⁹ As noted above, competitive Tier II and Tier III carriers, will need additional time beyond the December 31, 2017 deadline to implement and deploy RTT. They cannot make RTT-capable devices available before they deploy RTT in their networks. Moreover, smaller providers often are unable to obtain the newest handsets, an issue that has created complications for compliance with other regulatory obligations.²⁰ Thus, even if Tier II and Tier III carriers could make RTT-capable handsets available independently of deploying RTT capability in their networks, the likelihood that they would obtain those RTT-capable devices from manufacturers on the same timeframe as AT&T and Verizon is essentially zero.

¹⁹ *Id.*

²⁰ *See Ex Parte* Letter from Christopher Nierman, Director, Federal Regulatory Affairs, GCI, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 07-114 at 2-3 (filed July 28, 2010).

Accordingly, CCA requests that the Commission take into consideration RTT-capable handset availability before imposing specific minimal handset obligations on competitive carriers.

III. Conclusion.

CCA applauds the Commission for its attention to updating existing accessibility rules and to ensuring all consumers have access to these technologies. Despite this progress, CCA encourages the Commission to allow additional time for RTT deployment and compliance, and to ensure that the transition from TTY to RTT is inclusive and avoids overburdening carrier resources.

Respectfully submitted,

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